

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

TARENT BRYANT, :
:
Plaintiff, :
:
v. : **No. 5:10-CV-84 (CAR)**
:
ALAN CARTER, Warden, et al., :
:
Defendants. :

ORDER ON MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter comes before the Court on the United States Magistrate Judge's Report and Recommendation [Doc. 25], in which the Magistrate Judge recommends granting Defendants' Motion to Dismiss [Doc. 17]. Plaintiff filed timely objections [Docs. 26 & 27]. Having reviewed de novo the Recommendation and Plaintiff's objections, the Court agrees with the Magistrate Judge's recommendation that Defendants' Motion to Dismiss be granted. Accordingly, the Magistrate Judge's Order and Recommendation is **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT.**

The Magistrate Judge recommends dismissing Plaintiff's claims for failure to exhaust administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). Specifically, the Magistrate Judge made a factual finding based on various affidavits and prison records that although Plaintiff filed many grievances in his time at Hancock State Prison, no evidence exists showing that Plaintiff filed grievances on October 12, 2009, or November 3, 2009, that Plaintiff filed any grievances relating to the confiscation of a letter, or that Plaintiff filed any grievances related to retaliatory harassment. See Turner v. Burnside, 541 F.3d 1077, 1082 (11th Cir.

2008) (setting forth step two of the exhaustion analysis: if, assuming all allegations are true, plaintiff's complaint is not subject to dismissal, then court makes findings to resolve disputed factual issues related to exhaustion). Accordingly, the Magistrate Judge found that Plaintiff failed to exhaust his administrative remedies prior to filing suit.

Plaintiff's objections reiterate his contention that he filed grievances on October 12, 2009, and November 3, 2009, in addition to writing letters to numerous state officials. Plaintiff fails, however, to produce any evidence supporting these contentions. Plaintiff has not produced the "receipt" he alleges is in his possession relating to his grievances, nor has he offered any evidence relating to the substance of the alleged grievances. After reviewing Defendants' Motion to Dismiss and the attached exhibits and Plaintiff's objections, the Court finds no error in the Magistrate Judge's factual finding. Defendants have met their burden of proof in establishing that Plaintiff failed to exhaust his available administrative remedies. *Id.*

CONCLUSION

In accordance with the Report and Recommendation of the United States Magistrate Judge, Defendants' Motion to Dismiss [Doc. 17] is **GRANTED**.

SO ORDERED this 23rd day of March, 2011.

S/ C. Ashley Royal
C. ASHLEY ROYAL, JUDGE
UNITED STATES DISTRICT COURT

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